

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Lianne May	Team: Squad #7	CCRB Case #: 202102419	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 04/18/2021 12:30 AM	Location of Incident: Front of 620 Atlantic Avenue	Precinct: 78	18 Mo. SOL 10/18/2022	EO SOL 10/18/2022	
Date/Time CV Reported Wed, 04/21/2021 3:21 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 04/21/2021 3:21 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Smithu Samuel	02294	933322	061 PCT
2. Officers			
3. DT2 Amjad Kasaji	06901	939768	NARCBBN

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Lea Sahlani	07162	969348	061 PCT
2. POM Patrick McMahon	22268	968632	061 PCT
3. POF Abigail Brunner	21094	958338	069 PCT
4. POM Patrick Terlonge	30090	939567	063 PCT
5. POM Andrew Pereiro	19041	959062	120 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Smithu Samuel	Force: Sergeant Smithu Samuel used physical force against an individual.	
B. Officers	Force: Officers used physical force against § 87(2)(b)	
C.DT2 Amjad Kasaji	Force: Detective Amjad Kasaji used physical force against § 87(2)(b)	
D. Officers	Force: Officers restricted § 87(2)(b)'s breathing.	
E.SGT Smithu Samuel	Force: Sergeant Smithu Samuel used physical force against an individual.	
§ 87(4-b) § 87(2)(g)		

Case Summary

On April 21, 2021, § 87(2)(b) emailed the CCRB to file the following complaint on behalf of § 87(2)(b) (BR1).

§ 87(2)(b) viewed video of alleged misconduct at a protest that occurred at the Barclays Center at 620 Atlantic Avenue in Brooklyn on April 18, 2021. Sergeant Smithu Samuel, Police Officer Lea Sahlani, and Police Officer Patrick McMahon, all of the 61st Precinct, were assigned to the arrest team. Sgt. Samuel used force against a female civilian by pushing her to the ground when no other members of service deemed this necessary (**Allegation A: Force, § 87(2)(g)**). When officers apprehended § 87(2)(b) officers and Detective Amjad Kasaji of the Narcotics Borough for Brooklyn North used force against her (**Allegation B: Force, § 87(2)(g)**; **Allegation C: Force, § 87(2)(g)**). § 87(2)(b) stated on body-worn camera (BWC) that she could not breathe during her apprehension (**Allegation D: Force, § 87(2)(g)**). Officers then put her into an arrest van with § 87(2)(b) another civilian who was arrested. As a female civilian tried to go to the arrest van to speak with § 87(2)(b) Sgt. Samuel used his asp to push her away (**Allegation E: Force, § 87(2)(g)**). The arrest team drove to the 69 Precinct where Police Officer Abigail Brunner of the 69 Precinct helped PO Sahlani process § 87(2)(b) and lodge her into the cells. § 87(4-b) § 87(2)(g)

The investigation received 98 BWC videos (BR2; BR3; BR4), eight videos from LMSI (BR5), and four videos from TARU (BR6). The LMSI and TARU footage did not capture any of the incident.

Findings and Recommendations

Allegation A- Force: Sergeant Smithu Samuel used physical force against an individual.

§ 87(2)(b) is part of § 87(2)(b) and his team was at a protest at the Barclays Center filming the police on April 18, 2021. § 87(2)(b) later saw videos of officers using force against a Black woman, later identified as § 87(2)(b) (BR7). § 87(2)(b) provided a statement of what he saw in the videos from Cop Watch Patrol Unit. During this statement, he told the investigator that he would send the videos. The videos were posted on his personal Instagram account of § 87(2)(b) but were taken down at the time of the call (BR8). The investigation went to § 87(2)(b) on Instagram and the account was private and no videos could be seen or downloaded at all. On April 21, 2021 (BR9), April 28, 2021 (BR10), and May 12, 2021 (BR11), the investigation emailed § 87(2)(b) requesting he send the videos of the protest. The investigation also called § 87(2)(b) on May 25, 2021 (BR12) and May 26, 2021 (BR13). § 87(2)(b) told the investigation that he would contact his team to have them send the footage to the investigation by the end of the day on May 26, 2021 but failed to do so. Therefore, the investigation has no photos or videos provided by the complainant.

Based on § 87(2)(b)'s complaint, the CCRB reviewed BWC from the protest at the Barclay's Center and observed the following: PO Sahlani's BWC (BR14) from BWC timestamp 00:00-00:51, shows her approaching the main pedestrian plaza outside Barclay's Center. The plaza is mostly empty until she gets closer to the main subway entrance. Ambulances are lined up on the street. Near the main subway entrance, there are approximately three officers standing with their backs to her camera who appear to be watching the entrance to the subway station. As she passes these officers, there are barricades set up near the entrance to the subway station mixed with officers and civilians moving around without much commotion. Officers begin to push an emergency restraint chair from the entrance of the subway station in front of PO Sahlani. At BWC timestamp 00:58 and 12:25:06AM, a group of approximately three civilians walk past a group of approximately five to

seven officers engaged in what appears to be a verbal dispute. Sgt. Samuel approaches a female civilian wearing a white backpack who appears to be observing what is happening. Members of service, including Sgt. Samuel and Det. Kasaji, are walking in front of other members of service pushing the emergency restraint chair with a civilian sitting in it. Civilians, including the female with the white backpack, approach the members of service but do not attempt to interfere. Det. Kasaji uses only his hands to move civilians and therefore does not use excessive force. Sgt. Samuel, in contrast, is holding an asp parallel to his body and uses the asp to push the female with the white backpack to the ground as he says “move.” Other members of service do not use force at all. Sgt Samuel then walks near the ambulances.

In PO Frascella’s BWC (BR15) at BWC timestamp 03:48 and 12:24:58AM, someone yells, “yo yo yo yo” and civilians begin to run toward the entrance of the subway station. The female civilian wearing a white backpack runs toward the emergency restraint chair. Officers yell, “be careful” and “get back.”

In PO Flores-Luna’s BWC (BR16) at BWC timestamp 02:42-2:51 and at 12:26:55AM when Sgt. Samuel stands next to an ambulance after pushing the female in the white backpack, a civilian films Sgt. Samuel’s shield number and states, “this is the one attacking people.” Another civilian then asks him, “do you don’t deny that you were just attacking people?” Sgt. Samuel does not respond.

Sgt. Samuel, PO Sahlani, and PO McMahon, along with other officers from the 61st Precinct, were assigned to be the arrest team during the protest. Sgt. Samuel was the supervisor of this team and they arrived at the location in a van together across from the Barclays Center. While in the van, Sgt. Samuel issued no instructions to his officers about the protest. A sudden commotion that the officers could not explain in front of the Barclays Center caused members of service to leave their vans to assist other officers. Sgt. Samuel continued to issue no commands to his officers during the protest (BR17; BR18; BR19).

PO Sahlani and PO McMahon both testified (BR18; BR19) that neither of them needed to use force during the protest because the circumstances never warranted it. When the officers told civilians to move back or gave other verbal orders, the civilians complied. PO Sahlani and PO McMahon never received orders to move anyone off a sidewalk or away from any buildings. Their BWC videos (BR8; BR14) corroborated that they never used force against anyone.

Det. Kasaji explained that officers had stated over the radio that there was an arrest in the subway station. Det. Kasaji and other members of service assisted in escorting the arrested civilian in the emergency restraint chair to an ambulance on Atlantic Avenue. A crowd of people continually approached the officers within an arm’s length so that they could not walk to the ambulance without going through the crowd. Det. Kasaji tried to make his way through the crowd by giving verbal commands to the crowd like “get out of the way,” “make way”, and “police” and using his hands to move civilians as the crowd was actively blocking their way and stopping the officers from moving forward. Although the crowd was obstructing the officers’ way, no civilians made physical contact with the officers (BR121).

In addressing his actions in PO Sahlani’s BWC (BR14) and PO McMahon’s BWC (BR20), Sgt. Samuel explained he was moving individuals to the sidewalk so they could safely demonstrate on the other side. The officers were holding a police line. Sgt Samuel used his asp because they were requesting the protestors to move, and the female civilian with the white backpack did not move. Sgt. Samuel said he needed to use force against the civilians because they were not allowed to be walking there and were combative. Sgt. Samuel could not explain why they could not be on the

sidewalk or when he asked them to move. He did not know why they had to move other than being combative but could not describe the civilians' actions that made them combative (BR17).

The NYPD Patrol Guide section 221-01 entitled "Force Guidelines" explains that force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life. In all circumstances, an application of force must be reasonable under the circumstances. The Patrol Guide goes on to state that the reasonableness of the use of force is based upon the totality of the circumstances known by the MOS at the time of the use of force (BR22).

§ 87(2)(g)
[REDACTED]

Allegation B-Force: Officers used physical force against § 87(2)(b).

Allegation C- Force: Detective Amjad Kasaji used physical force against § 87(2)(b).

Allegation D-Force: Officers restricted § 87(2)(b)'s breathing.

§ 87(2)(b) filed this complaint on behalf of § 87(2)(b) (BR1). On April 21, 2021, the CCRB investigator spoke to § 87(2)(b) a reporting non-witness, who was with § 87(2)(b) on the phone call. § 87(2)(b) refused to provide any contact information for herself and said she could be reached only through § 87(2)(b). § 87(2)(b) stated on the call that officers used force against her and pulled her pants off. On this preliminary call, the CCRB investigator scheduled interviews for § 87(2)(b) and § 87(2)(b). § 87(2)(b) missed her first scheduled interview and § 87(2)(b) said that he would inform her that she still needed to provide a statement (BR8).

§ 87(2)(b) then provided a statement but only based on the footage that he saw after the incident and he did not witness. § 87(2)(b) had videos on his Instagram page of § 87(2)(b)'s arrest, but he took them down. § 87(2)(b)'s § 87(2)(b) team was at the protest and filmed these videos (BR8). After multiple emails and phone calls, § 87(2)(b) stated on May 26, 2021 that he will send the videos and photos to the CCRB. He refused to provide any of the names or contact information of his team but said that he would provide the CCRB investigator's information his team and they would be in contact (BR13). § 87(2)(b) never sent these photos/videos and his team ever contacted the CCRB.

§ 87(2)(b) was arrested under Arrest § 87(2)(b) for § 87(2)(b). Her arrest report notes that when Det. Kasaji and other officers were trying to effect the arrest of § 87(2)(b) Det. Kasaji gave verbal commands to § 87(2)(b) to let go of § 87(2)(b) but she continued to hold onto him and interfere with his arrest. Officers pulled her away and placed her under arrest (BR23).

In PO Basile's BWC (BR24) from BWC timestamp 03:10-04:08 and from 12:27:29AM-12:28:27AM, there is a commotion in the back with officers and civilians running toward it. Det. Kasaji is in a group of officers pulling § 87(2)(b) a Black male wearing a denim jacket, and § 87(2)(b) in a black sweatshirt, as they are all standing up. Officers are trying to arrest § 87(2)(b).

§ 87(2)(b) At first, officers are only pulling § 87(2)(b) back while § 87(2)(b) clings to § 87(2)(b) as they are standing upright. PO Basile turns away so the BWC does not capture how, but later shows § 87(2)(b) and § 87(2)(b) on the ground and § 87(2)(b) laying on top of him and officers stand around. Officers yell “get off of him.” Det. Kasaji pulls § 87(2)(b) s pants off as she is still laying facedown.

In PO Terlonge’s BWC from BWC timestamp 1:58-2:20 and 12:28:04AM-12:28:26AM (BR25), Det. Kasaji pulls § 87(2)(b) s pants off her so they are around her ankles. § 87(2)(b) now only has spandex shorts on as underwear and no other clothing on her legs. None of her private parts were showing.

Det. Kasaji explained that he was attempting to get § 87(2)(b) off of § 87(2)(b) and stop her from clinging to him. In this attempt, he grabbed her legs and ankles and pulled with her pants coming off as an unintended consequence to his use of force. Det. Kasaji acknowledged that he did pull § 87(2)(b) s pants off and rip them so that her underwear was exposed but clarified this was part of arresting § 87(2)(b). Det. Kasaji then wanted to get to the arrest van as quickly as possible to save her the humiliation of being in public without pants. As the driver of the van was a female, Det. Kasaji assumed female officers would assist § 87(2)(b) later (BR21).

From BWC timestamp 2:26-2:42 in PO Periero’s BWC (BR26), § 87(2)(b) states that she cannot breathe while she is laying on the ground. Many officers are around her while she is on the ground, but it is unclear which officers are handcuffing her and what actions they are taking. From BWC timestamp 5:09-5:27, a White male officer and a Hispanic male officer carry § 87(2)(b) by the arms with PO Terlonge carrying her ankles.

In PO Basile’s BR (BR24) from timestamp 9:15-10:11, PO Terlonge and the other officers put § 87(2)(b) down. § 87(2)(b) asks a female officer to pull her boxers down to cover her. She states that the officers ripped them off. The female officer pulls them down, so she is more covered. officers carry § 87(2)(b) away. Officers walk § 87(2)(b) away. § 87(2)(b) asks a female officer to pull down her boxers.

In PO Sahlani’s BWC (BR14) from 1:04:10-1:05:26, § 87(2)(b) gets out of the van at the stationhouse and states, “my booty is out” while she is only in her underwear. She asks PO Sahlani to pull down her sweatshirt, so she is covered, and PO Sahlani does so before walking her into the stationhouse. § 87(2)(b) then walks into the stationhouse and asks for clothes and states that her pants are ripped and cannot be worn.

In PO Sahlani’s BWC from timestamp 00:18-00:36 (BR27), an Asian male officer comes to offer § 87(2)(b) a hospital gown. § 87(2)(b) states that it looks dirty and refuses to wear it. PO Sahlani then takes her to the holding cells. None of her private parts were showing.

PO Sahlani was § 87(2)(b) s arresting officer. The first time she saw her was in the arrest van to the 69 Precinct. When § 87(2)(b) got out of the van, she said that her pants ripped down the middle and they could not be worn or salvaged. § 87(2)(b) only wore biker shorts on with a backpack. PO Sahlani and PO Brunner explained that if they have an arrested person with no clothing, they try to help them by finding whatever is best to cover them but there is no official procedure. PO Sahlani and PO Brunner then tried to get her to the back as quickly as possible to not have § 87(2)(b) stand in front of men without pants for so long (BR18; BR28).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation E-Force: Sergeant Smithu Samuel used physical force against an individual.

In PO McMahon's BWC from timestamp 22:45-24:06 and 12:46:50AM-12:48:11AM (BR20), a female goes up to the driver's door of the arrest van in which § 87(2)(b) and § 87(2)(b) are lodged. Officers tell her to move away from the van multiple times. She does not move for 8 seconds and continually tries to approach the van. Sgt. Samuel first holds out his asp in front of him, puts it on her chest and pushes her back to the sidewalk. The female walks back to the sidewalk and Sgt. Samuel stops pushing her with the asp. She continually tries to push the officers to get to the van.

Sgt. Samuel explained that he and other officers stood around the perimeter of the van to keep civilians away. Sgt. Samuel never had to tell anyone to get away or use force to keep anyone away from the van (BR17).

After viewing the BWC, Sgt. Samuel explained he told the people to get away from the van because Sgt. Samuel needed to secure the prisoners. He raised his asp and used it to push the female away because he had to keep those away from the van. He did not have any knowledge of this white female before she came up to the van (BR17).

As stated above, the NYPD Patrol Guide section 221-01 entitled "Force Guidelines" explains that force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life. In all circumstances, an application of force must be reasonable under the circumstances. The Patrol Guide goes on to state that the reasonableness of the use of force is based upon the totality of the circumstances known by the MOS at the time of the use of force (BR22).

§ 87(2)(g)

§ 87(4-b) § 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)

Mediation, Civil, and Criminal Histories

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 7

Investigator:	<u>Lianne May</u>	Investigator <u>Lianne May</u>	<u>December 9, 2021</u>
	Signature	Print Title & Name	Date

Squad Leader: _____

Manager Vanessa Rosen

December 9, 2021

Signature Print Title & Name Date

Reviewer: _____

Signature	Print Title & Name	Date
-----------	--------------------	------